

REMARKS/ARGUMENTS

Claims 1 - 2, 18 - 19, and 22 are presented for the Examiner's consideration. Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Applicants have amended the claims to reduce the number of issues for appeal. In particular, claims 6 and 23 have been canceled, incorporating the claimed subject matter into claims 1 and 18. No new issues of patentability are introduced by the above amendments, since the Examiner has already considered the patentability of claims 6 and 23 in the Office Action dated May 12, 2004. The above amendment is respectfully requested to be entered by the Examiner.

Claims 1, 2, 6, 18, 19, 22, and 23 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. 6,286,712 issued to *Craig* in view of U.S. 4,768,810 issued to *Mertens* and in further in view of U.S. 3,518,810 issued to *Steeves*. *Craig* discloses a stack of interfolded sheets with adjacent groups adhesively secured or mechanically bonded together. *Mertens* discloses a writing tablet formed from a fanfolded paper web having pressure sensitive adhesive areas that also has transverse perforated lines to tear the individual sheets from the tablet. *Mertens* discloses an embodiment of the familiar Post-it Notes® sold by 3M Corporation. *Steeves* discloses a web pleating apparatus for web materials that are stiff in nature such as polyester or other plastic films or film laminates, which cannot take a so-called dead-fold as opposed to paper webs which do readily take a dead-fold. See column 1, lines 22 - 25 of *Steeves*.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure. See MPEP § 2143 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Furthermore, a statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art at the time the invention was made because the references relied upon teach that all aspects of the invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. See MPEP § 2143.01 citing *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). The level of skill in the art cannot be relied upon to provide the suggestion to combine references. See *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

The Applicants respectfully traverse the Examiner's position that a *prima facie* case of obviousness has been established. In particular, the Applicants assert that the Examiner has used the Applicants' specification to enable hindsight reconstruction of the claimed invention by selecting non-analogous art from the Post-it Notes® area to be combined with *Craig*, and from the folding of plastic films area to be further combined with *Craig* to derive the Applicants' claims. After the above amendments, the Applicants' claimed invention is directed to a moistened stack of fan folded sheets suitable for use as a wet wipe.

The Office Action dated May 12th, 2004, states that the reason for combining *Craig* with *Mertens* is for the purpose of tearing individual sheets of a uniform size. However, the sheets of *Craig* are **already** of a uniform size by virtue of being interfolded as shown and taught. Thus, why is one of ordinary skill in the art motivated to combine the references as suggested by the Examiner to provide sheets of a uniform size when the sheets are already of a uniform size? One of ordinary skill in the wet wipes art would not be motivated to replace the interfolding process taught by *Craig* with a perforation process to arrive at the same uniformly sized sheets already provided by *Craig*. Thus, there is no motivation for combining *Mertens* with *Craig*.

Instead, the perforation process improves the dispensing function, for example, by reducing "wipe fallback" or "multiple wipes" as taught on page 2, line 18 - page 3, line 6 of the Applicants' specification. *Craig* does not disclose or suggest that the disclosed interfolded stack has any dispensing issues which require another process to join the wipes by weakened lines for the purpose of overcoming those issues. The mechanism for pop-up dispensing in *Craig* relies on sheet adhesion. As such, reliable pop-up dispensing can be influenced by basesheet texture, moisture level of the wipe, solution tackiness, and variations in the folding process due to sheet

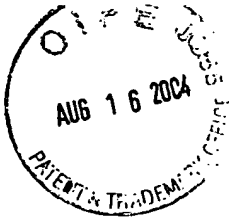
weaving. Production variability in these factors can cause the previously discussed dispensing problems.

Similarly, *Mertens* does not teach or suggest the use of perforations to improve dispensing by reducing wipe fallback or multiple dispensing since the writing tablet of *Mertens* is not intended to be used in a dispenser unlike a stack of wet wipes which must be placed in a dispenser to prevent drying out prior to use. Only the Applicants' specification suggests the desirability of this solution.

The Office Action dated May 12th, 2004, states that the reason for combining *Steeves* with *Craig* is to provide for a compactly packaged article. However, the sheets of *Craig* are **already** in a compactly packaged condition by virtue of being interfolded as shown and taught. Thus, why is one of ordinary skill in the art motivated to combine the references as suggested by the Examiner to arrive at a compact packaged article when the stack of *Craig* is already a compact packaged article? There is no reason for one of skill in the wet wipes art to replace the interfolding process of *Craig* with the longitudinal fold of *Steeves* to arrive at a folded stack of the same size already provided by *Craig*. Furthermore, the *Steeves*' reference teaches that such a method is not needed for paper webs since they can be readily folded by different means e.g. by dead-fold means. *Steeves* teaches away from using the process for paper webs or other flexible webs suitable for use as a wet wipe. Thus, one of ordinary skill in the wet wipes art would not be motivated to combine *Craig*, which concerns paper webs (column 1, lines 10 - 21), with the *Steeves*' process for folding stiff materials since it is not even suggested for use with paper webs.

The Examiners' suggested rationale for combining the non-analogous references of *Mertens* and *Steeves* do not establish a reason why one of ordinary skill in the wet wipes art would be motivated to combine the references. The suggested reasons merely accomplish the same benefits already provided by *Craig*'s interfolded stack. The combination of references does not teach or suggest the improved dispensing provided by the Applicants' claimed invention. Rather, it appears instead that the Applicants' disclosure has been used as a blueprint to select individual claim components to arrive at the Applicants' claimed invention.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance and such action is requested by the Applicants.



RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. ____3721____

However, should the Examiner maintain the current rejections, the Applicants have included a Notice of Appeal in the event one should be necessary. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,
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CERTIFICATE OF MAILING

I, Lanette Burton, hereby certify that on August 12, 2004, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Lanette Burton
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